

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CRIM. NO. 2014-54
)	
)	
SHERRYMAE MORALES,)	
)	
Defendant.)	
_____)	

REPORTER'S TRANSCRIPT

DAY THREE

JURY TRIAL

Wednesday, July 1, 2015

BEFORE: THE HONORABLE CURTIS V. GOMEZ
District Judge

APPEARANCES: OFFICE OF THE UNITED STATES ATTORNEY
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Official Court Reporter
Virgin Islands District Court
St. Thomas, Virgin Islands

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(Court recessed)

PROCEEDINGS

(Court called to order at 8:21 a.m. in USA v
Morales.)

(Jury present.)

THE COURT: Good morning, ladies and gentlemen.
I hope you had a pleasant evening.
We are in the final stages. There are just a few
final instructions I need to give you before you begin
your deliberations.

Before I do that, though, let me tell you what
you'll have with you when you're deliberating.

You will have a copy of the jury instructions.

You will have all the items that have been admitted
into evidence. You'll have it by way of electronic
retrieval -- there's a monitor in there and you'll
figure out how to use it. But you'll be able to see all
the exhibits.

And you'll also have a copy of the indictment.

And you'll have another form that we refer to as
the verdict form, so you can indicate what your vote is.
All right.

So let me give you your final instruction and then
you can begin the process.

08:22:46 1 FURTHER JURY INSTRUCTIONS BY THE COURT

08:22:47 2 THE COURT: The indictment charges that the
08:22:48 3 crimes charged occurred on or about certain dates.

08:22:51 4 The proof need not establish with certainty the
08:22:54 5 exact dates of the alleged offenses. It's sufficient if
08:22:56 6 the evidence in this case establishes beyond a
08:22:58 7 reasonable doubt that the offense was committed on dates
08:23:01 8 reasonably near the date alleged.

08:23:02 9 During the course of this trial you've seen counsel
08:23:05 10 both for the government and for the defense make various
08:23:07 11 objections to questions asked and evidence offered.

08:23:10 12 It is not only the right, it is the duty of counsel
08:23:17 13 for either the government or for the defense to object
08:23:19 14 when counsel believes evidence or testimony being
08:23:21 15 offered is not admissible under the Rules of Evidence.
08:23:24 16 Then I rule on the objection.

08:23:26 17 Do not be influenced in any way by my rulings,
08:23:29 18 whether in favor of or against the government or the
08:23:32 19 defendant. As I've already told you, these rulings
08:23:35 20 involve questions of law only, and may not be given any
08:23:38 21 consideration by you in your deliberations.

08:23:40 22 In performing my constitutional role to preside
08:23:44 23 over this trial, I sometimes found it necessary to ask a
08:23:47 24 question or two of witnesses, to clarify testimony I
08:23:49 25 thought was unclear.

08:23:50 1 If I have asked any question to any witnesses
08:23:53 2 during the course of this trial, or if I've said or done
08:23:56 3 anything during the trial, or in the course and manner
08:23:58 4 of instructing you now, where it seems to you that I'm
08:24:01 5 inclined to favor the case of the government or the case
08:24:04 6 of the defendant, you must remove any such impression
08:24:06 7 from your minds and not be influenced by it, as no such
08:24:10 8 impression was intended.

08:24:12 9 You've seen counsel consult with each other and
08:24:15 10 sometimes between each other. Attorneys have an
08:24:18 11 obligation to consult with each other if such
08:24:20 12 consultation is in the best interest of the attorney's
08:24:23 13 client.

08:24:24 14 Counsel also have a right and duty to ask me to
08:24:26 15 make rulings of law and to request conferences at
08:24:29 16 sidebar out of the hearing of the jury. All those
08:24:32 17 questions of law must be decided by me, the Court.

08:24:34 18 You should not show any prejudice against an
08:24:37 19 attorney or the attorney's client because the attorney
08:24:39 20 asked for a conference out of the hearing of the jury or
08:24:42 21 asked the Court for a ruling on the law.

08:24:44 22 All of these conferences deal with legal questions
08:24:47 23 on which I have ruled, and do not concern your function
08:24:50 24 as jurors. Do not speculate on such matters during your
08:24:53 25 deliberations.

08:24:54 1 You've been chosen and sworn as jurors in this case
08:24:57 2 to try the issues of fact presented by the defendant's
08:25:00 3 plea of not guilty to the charges in the indictment.

08:25:04 4 You are to perform this duty without bias, sympathy
08:25:08 5 or prejudice. Under no circumstances, then, may your
08:25:10 6 deliberations be affected or diverted by any appeals to
08:25:14 7 bias, passion or prejudice, nor influenced by any pity
08:25:18 8 or sympathy for either side.

08:25:20 9 In every respect your judgment must be considered,
08:25:24 10 deliberate and objective. It must derive its force and
08:25:28 11 validity from the facts and inferences reasonably and
08:25:30 12 logically supported by the testimony.

08:25:32 13 Both the government and the defendant expect that
08:25:34 14 you will carefully and impartially consider all of the
08:25:37 15 evidence, follow the law as stated by the Court, and
08:25:39 16 reach a just verdict regardless of the consequences.

08:25:42 17 I need not impress upon you that it is your duty to
08:25:45 18 give an absolutely fair and impartial verdict.

08:25:48 19 It was said that this is an important case. That
08:25:51 20 is true. Every case that comes into this court is
08:25:53 21 important.

08:25:54 22 This case is of equal importance to the government
08:25:56 23 and to the defendant. Each is entitled to your fairest
08:26:00 24 consideration, your closest judgment and your impartial
08:26:03 25 decision.

08:26:04 1 Jurors perform a very important function in
08:26:06 2 deciding upon their verdict. You are an arm of this
08:26:09 3 Court, here to do justice. That is sacred. Do your
08:26:13 4 duty conscientiously, according to your oath and
08:26:16 5 according to these instructions, and justice will be
08:26:19 6 done.

08:26:20 7 You were accepted as jurors based on your answers
08:26:22 8 when you were initially questioned about your
08:26:25 9 qualifications. The answers you then made to questions
08:26:28 10 with respect to your competency, qualifications,
08:26:30 11 fairness, lack of prejudice and freedom from sympathy
08:26:33 12 are as binding upon you now as they were then, and
08:26:36 13 should remain so until you are finally discharged from
08:26:39 14 further consideration of this case.

08:26:42 15 Remember at all times you are not partisans. You
08:26:45 16 are judges, judges of the facts. Your sole interest is
08:26:48 17 to search for and to ascertain the truth from the
08:26:50 18 evidence in this case.

08:26:51 19 You will recall earlier in these instructions I
08:26:55 20 charged that under our system of criminal justice the
08:26:57 21 Court and this jury have distinct functions. What
08:27:01 22 sentence or punishment, if any, the defendant will
08:27:03 23 receive if found guilty is entirely beyond the province
08:27:06 24 of the jury. In plain words, that is the business of
08:27:08 25 this Court.

08:27:10 1 Sentence or punishment should never be considered
08:27:12 2 by a jury in any way in arriving at an impartial
08:27:16 3 verdict. Your sole duty is to determine the guilt or
08:27:18 4 lack of guilt of the defendant presently on trial before
08:27:21 5 you.

08:27:22 6 You are further instructed if any of you has
08:27:26 7 developed any opinion in this case, predicated in whole
08:27:28 8 or in part from sources seen or heard outside of this
08:27:32 9 court, you are to put such opinion out of your mind.

08:27:36 10 I want to stress in the strongest possible terms
08:27:38 11 that regardless of what counsel has said in recalling
08:27:41 12 the facts of this case, it is your recollection of the
08:27:43 13 facts that should guide you in carrying out your
08:27:45 14 function as jurors of the facts.

08:27:49 15 If any of the attorneys stated a version of the
08:27:51 16 facts that does not square with your own recollections,
08:27:53 17 you are to disregard that version in favor of your own
08:27:57 18 recollections.

08:27:58 19 In arriving your verdict you are to consider all
08:28:00 20 the evidence as you recall it, and you are to give that
08:28:03 21 evidence the weight that you believe it is entitled to
08:28:05 22 receive.

08:28:07 23 During the course of this trial you have no doubt
08:28:09 24 received definite impressions on how you think it should
08:28:11 25 be decided. Do not allow these impressions to become so

08:28:15 1 firmly fixed that they prevent you from fairly and
08:28:17 2 frankly discussing this case with any of your fellow
08:28:19 3 jurors who may have a different point of view.

08:28:24 4 It is your duty as jurors to give careful attention
08:28:27 5 and consideration to the views of your fellow jurors, to
08:28:30 6 consult with one another and to deliberate with a view
08:28:33 7 toward reaching an agreement, if you can do so without
08:28:35 8 doing violence to your individual judgment.

08:28:37 9 Each of you must decide the case for yourself, but
08:28:40 10 do not -- but do so only after an impartial
08:28:44 11 consideration of the evidence with your fellow jurors.

08:28:48 12 In the course of your deliberations, do not
08:28:50 13 hesitate to take a look at your own views and to change
08:28:52 14 your opinion if you become convinced it is wrong. But
08:28:55 15 do not give up your honest conviction or belief without
08:28:57 16 the weight -- let me read that again.

08:29:01 17 Do not give up your honest conviction or belief
08:29:04 18 about the weight or effect of the evidence solely
08:29:06 19 because of the opinion of your fellow jurors, or just so
08:29:09 20 you can return a verdict.

08:29:10 21 When you retire to the jury room to deliberate,
08:29:13 22 your first order of business is to elect a foreperson.

08:29:16 23 The foreperson will preside over your deliberations
08:29:18 24 and will speak for you here in court.

08:29:21 25 That person has no greater weight of opinion than

08:29:23 1 anyone else.

08:29:25 2 If it becomes necessary during your deliberations
08:29:27 3 to communicate with me, you may send a note by the court
08:29:30 4 security officer or marshal.

08:29:32 5 Never try to communicate with me by any means other
08:29:36 6 than by a signed, sealed writing.

08:29:38 7 And bear in mind you are not to reveal to the Court
08:29:41 8 or to any person how you stand, numerically or
08:29:44 9 otherwise, until you've reached a unanimous verdict.

08:29:50 10 And in communicating with the Court, you do not
08:29:53 11 communicate with anyone else, any deputy or any marshal
08:29:59 12 or any court security officer, about your verdict.

08:30:02 13 The only communication that you can have with those
08:30:04 14 people is to let them know you need to communicate with
08:30:07 15 me, the Court. And then you'll communicate with me
08:30:10 16 through a signed, sealed writing.

08:30:13 17 Now a word about your verdict. Your verdict must
08:30:15 18 represent the considered judgment of each juror, and all
08:30:18 19 jurors must agree on the verdict before you return a
08:30:21 20 verdict. Your verdict must be unanimous.

08:30:24 21 To aid and assist you in the discharge of your
08:30:26 22 obligation, there has been prepared, with the consent of
08:30:28 23 counsel, a verdict form which you are to answer
08:30:31 24 unanimously, thereby facilitating your task and that of
08:30:35 25 the Court in determining the proper verdict to be

08:30:37 1 entered.

08:30:38 2 As I've discussed before, you will be making a
08:30:40 3 determination of guilty or not guilty on each crime with
08:30:42 4 which the defendant is charged.

08:30:45 5 As you will see when I give you the verdict form,
08:30:47 6 it has a space listed for the charge. Within the space
08:30:50 7 you'll note that there's a space provided for guilty or
08:30:54 8 not guilty.

08:30:54 9 When you've made a unanimous determination of the
08:30:57 10 guilt or innocence of the defendant with respect to a
08:30:59 11 particular charge, you will make an "X" mark in the
08:31:01 12 appropriate space, indicating either guilty or not
08:31:04 13 guilty.

08:31:04 14 Nothing that has been said in these instructions or
08:31:06 15 in the form of verdict is to suggest or convey in any
08:31:10 16 way or manner what verdict I think you should find.

08:31:15 17 You will take the form with you, and when you have
08:31:16 18 unanimously made a determination the foreperson should
08:31:20 19 date it, sign it and then pass it to each of you to
08:31:23 20 sign. Then it should be sealed.

08:31:24 21 Then you should advise the marshal or deputy that
08:31:29 22 you wish to be returned to the courtroom. And upon your
08:31:32 23 return to the courtroom, the foreperson should bring the
08:31:35 24 verdict form.

08:31:35 25 I'll then ask if you've reached a verdict and, if

08:31:39 1 so, will ask the foreperson to announce the jury's
08:31:42 2 verdict. Your foreperson will then respond by using the
08:31:45 3 completed verdict form supplied to you and read that
08:31:48 4 form to have the verdict recorded.

08:31:53 5 All right. It's now time to begin your
08:31:54 6 deliberations. As I said, you will have the evidence,
08:31:58 7 the instructions and the indictment with you.

08:32:07 8 Under our system of justice, only twelve jurors may
08:32:12 9 deliberate. So there are two alternates. The two
08:32:14 10 alternates will be separated for deliberation purposes.
08:32:16 11 The alternates are not excused, though. They will just
08:32:19 12 be separated during deliberations. In the event there
08:32:23 13 is need for an alternate, then we'll call you and begin
08:32:26 14 deliberations again with the alternate who may be subbed
08:32:31 15 in, if necessary.

08:32:32 16 All right. With that, it's time to begin your
08:32:35 17 deliberations.

08:33:48 18 (Jury out for deliberations.)

08:33:52 19 THE COURT: I don't think I had an opportunity.
08:33:56 20 Good morning, Counsel.

08:33:58 21 MR. JUPITER: Good morning, Your Honor.

08:33:59 22 MR. POTTER: Good morning, Your Honor.

08:34:00 23 THE COURT: All right. The seven-minute rule
08:34:02 24 is in place. Just make sure you get to the courtroom in
08:34:05 25 seven minutes, so if there's a note we can address it

08:34:08 1 promptly. We won't keep the jury waiting.

08:34:11 2 MR. JUPITER: I would ask --

08:34:11 3 THE COURT: Objections --

08:34:12 4 MR. JUPITER: Your Honor, we are about
08:34:14 5 seven minutes away. Could we get ten minutes?

08:34:16 6 THE COURT: You want to change the seven-minute
08:34:19 7 rule to a ten-minute rule; is that what you're asking?

08:34:21 8 MR. JUPITER: Well, I asked the chief judge to
08:34:25 9 do it and -- because we're not in the court, we're not
08:34:28 10 in this court.

08:34:29 11 THE COURT: All right. We'll consider it.

08:34:31 12 Any objections with respect to the jury
08:34:37 13 instructions from the government?

08:34:39 14 MR. POTTER: No objections, Your Honor.

08:34:40 15 THE COURT: Attorney Jupiter?

08:34:41 16 MR. JUPITER: Yes, Your Honor.

08:34:43 17 THE COURT: Okay. Go ahead. You'll note that
08:34:48 18 there were some changes that were made with respect to
08:34:51 19 some of the concerns you raised during the charging
08:34:55 20 conference.

08:34:56 21 MR. JUPITER: Yes. And I couldn't -- my
08:35:00 22 Internet is out, so I couldn't log in this morning when
08:35:03 23 I went to the office to try to print them out. So I may
08:35:06 24 be mistaken, because I had the version that was not --

08:35:13 25 THE COURT: Speak into the microphone. For

08:35:15 1 some reason, your microphone is not --

08:35:20 2 MR. JUPITER: It's not on.

08:35:21 3 THE COURT: Maybe -- do you have one of the
08:35:23 4 wireless?

08:35:23 5 MR. JUPITER: Okay. Test.

08:35:33 6 Okay, Your Honor, the -- with respect to the jury
08:35:39 7 instruction on mental state and specific intent -- and
08:35:46 8 this is on the page 11 of the unrevised -- unrevised
08:35:53 9 version of the original version -- the Court instructed,
08:36:02 10 I believe instructed the jury that while -- in the
08:36:13 11 middle paragraph it talks about:

08:36:16 12 State of mind or knowledge ordinarily may
08:36:18 13 only be proved indirectly, that is, by
08:36:21 14 circumstantial evidence, because there's no
08:36:24 15 way we can get inside to observe the
08:36:27 16 operations of the human mind.

08:36:28 17 While witnesses may be able to give
08:36:30 18 direct evidence of what the defendant said or
08:36:32 19 did or failed to say or do, there could be no
08:36:35 20 eyewitness account of the state of a person's
08:36:38 21 mind at the time an act was done. But what a
08:36:43 22 witness does, says, or fails to say or do may
08:36:46 23 indicate the state of mind in which the person
08:36:49 24 did the act.

08:36:51 25 So I would ask -- I would have -- my objection is

08:36:55 1 that that includes "fails to do" -- "fails to say or
08:37:01 2 do," which I believe goes to omissions, because the
08:37:04 3 government did not charge material omission by this
08:37:09 4 crime being in the indictment, these crimes being done
08:37:13 5 by omission.

08:37:14 6 I would object to those, that instruction with
08:37:18 7 regard to the language included about what they failed
08:37:22 8 to do or failed to say.

08:37:24 9 THE COURT: All right.

08:37:24 10 The Court considered the objection and found the
08:37:28 11 instruction to be appropriate under the circumstances.
08:37:31 12 While the government may not have put every specific
08:37:37 13 manner by which they might prove the crime, once the
08:37:41 14 crime is alleged, the crime can be committed and a jury
08:37:46 15 could find by permissible inferences from circumstantial
08:37:49 16 evidence or direct evidence that the defendant committed
08:37:55 17 the offense.

08:37:56 18 And the instruction captures that, what a jury is
08:38:02 19 permitted to do, and that is consider circumstantial
08:38:07 20 evidence as well as direct evidence, and give equal
08:38:10 21 weight to both; and also captures the notion that a
08:38:16 22 crime may be committed, not just by direct acts but by
08:38:21 23 acts of omission as well. And the Court finds that the
08:38:28 24 instruction was appropriate.

08:38:29 25 Go ahead, your next one.

08:38:30 1 MR. JUPITER: My next one goes to determining
08:38:32 2 the value of the property, which was on page 17 of the
08:38:35 3 unrevised version.

08:38:38 4 I objected to this in the jury conference -- well,
08:38:43 5 I asked the Court to actually give an additional
08:38:51 6 instruction.

08:38:51 7 And the Court indicated that during the jury charge
08:38:56 8 it would allow counsel to make its objection with regard
08:38:59 9 to the instruction we were seeking.

08:39:02 10 But this goes to bona fide salary exception. And
08:39:08 11 we would ask that this would have been, the way it is
08:39:15 12 stated as it was given, the first sentence saying:

08:39:19 13 The value of the property stolen,
08:39:20 14 embezzled, obtained by fraud or knowingly
08:39:22 15 converted by the defendant, does not include
08:39:24 16 legitimate salary, wages, fees or other
08:39:27 17 compensation paid, or expenses paid or
08:39:30 18 reimbursed in the ordinary course of business.

08:39:33 19 And then it goes on to say:

08:39:34 20 If you find the defendant devised a
08:39:37 21 scheme or plan to take sums of money or
08:39:39 22 property --

08:39:40 23 THE COURT: That's not what was instructed and
08:39:42 24 that is not what we'll give them. What the Court did
08:39:46 25 was put a list that matched the first sentence, as we

08:39:48 1 discussed in our charging conference.

08:39:49 2 So the second sentence, I believe, reads, "If you
08:39:52 3 find that the defendant devised a scheme or plan to" --
08:39:55 4 and then we listed "illicit conduct, steal, embezzle,
08:39:59 5 obtain by fraud, or knowingly convert money or
08:40:04 6 property."

08:40:05 7 So it listed conduct in a serial fashion that was
08:40:12 8 consistent with the first sentence.

08:40:13 9 Go ahead.

08:40:14 10 MR. JUPITER: Yes, Your Honor. And I apologize
08:40:16 11 for that. I, like I said, I don't have the printed
08:40:22 12 version. I wanted to get it this morning.

08:40:24 13 But at any rate, Your Honor, I wanted the -- I
08:40:27 14 think either way you list it, it makes it appear that if
08:40:39 15 you -- that salary could be included in this amount, if
08:40:45 16 you find that the defendant devised a scheme. And it
08:40:51 17 doesn't indicate to the jury that if salary, legitimate
08:40:58 18 salary, wages, fees or other compensation paid is used
08:41:05 19 for the government to meet its threshold burden to prove
08:41:10 20 that the amount stolen or obtained by fraud was at least
08:41:16 21 \$5,000, then the jury would have to find the defendant
08:41:19 22 not guilty.

08:41:22 23 I beg of the Court's indulgence. I have a case.

08:41:22 24 (Pause)

08:41:36 25 We cite to the Sixth Circuit case of United States

08:41:42 1 versus Mills, which I believe is very much on point.
08:41:47 2 This is a case where the bona fide salary exception was
08:41:54 3 applied. And even though the Court found that these
08:42:02 4 were deputies who were hired, and the issue in the case
08:42:08 5 was whether they were hired by bribes. And there were
08:42:16 6 bribes used in, that were not in excess of \$5,000,
08:42:21 7 kickbacks to get their jobs.

08:42:24 8 But the amount that the government was trying to
08:42:29 9 use as part of the threshold included the salaries that
08:42:35 10 they got in the ordinary course of business.

08:42:38 11 And that's exactly the case here. So we would have
08:42:42 12 asked that the jury would have been instructed that if
08:42:47 13 they found that the amount in controversy was part of
08:42:52 14 the \$5,000 threshold, it was part -- that it was
08:42:59 15 Ms. Morales's salary from the Virgin Islands National
08:43:05 16 Guard, that the jury would have to find the defendant
08:43:07 17 not guilty.

08:43:09 18 And the other thing I would ask for is with regard
08:43:14 19 to the fifth element:

08:43:15 20 As stated earlier, the government must
08:43:17 21 prove beyond a reasonable doubt that the value
08:43:19 22 of the property stolen, embezzled or obtained
08:43:23 23 by fraud was at least \$5,000.

08:43:25 24 This amount does not include legitimate
08:43:28 25 salary, wages, fees, or other compensation

08:43:31 1 paid, or expenses paid, expenses paid or
08:43:35 2 reimbursed in the ordinary course of business.

08:43:38 3 If you find that the government has not
08:43:45 4 proven beyond a reasonable doubt that the
08:43:49 5 amount stolen was -- that part of the amount
08:44:02 6 stolen in excess -- over, over \$5,000, was in
08:44:15 7 part of the salary wages or fees paid in
08:44:18 8 compensation, that you must find the defendant
08:44:20 9 not guilty.

08:44:22 10 THE COURT: All right. With respect to that
08:44:26 11 suggestion, the Court considered the defense's
08:44:31 12 suggestion and finds that the instruction is appropriate
08:44:34 13 and adequate.

08:44:35 14 In fact, the instruction must be read together with
08:44:42 15 the -- that is, the instruction that outlines how you
08:44:46 16 determine value of property has to be read together with
08:44:49 17 the elements that have to be proved by the government.

08:44:51 18 The fifth element, that the value of the property
08:44:55 19 stolen has to exceed \$5,000, the explanation that
08:44:59 20 follows instructs the jury on how you determine the
08:45:02 21 value of the property stolen.

08:45:04 22 And in that first sentence it specifically says:

08:45:05 23 The value of the property stolen does not
08:45:08 24 include legitimate salary, wages, fees or
08:45:12 25 other compensation paid or expenses paid or

08:45:14 1 reimbursed in the ordinary course of business.

08:45:17 2 Case law, I think, supports the view that a jury is

08:45:21 3 presumed to follow the instruction of the Court. And

08:45:24 4 they were specifically told: When you're looking at the

08:45:27 5 value of stolen property, do not include legitimate

08:45:31 6 salary, wages, fees or other compensation paid.

08:45:36 7 So the Court sees that the argument is more a proof

08:45:40 8 issue, and if the jury is persuaded the burden was met

08:45:44 9 by the government, then I suspect they will rule

08:45:48 10 accordingly.

08:45:48 11 If they don't, then they will accept the view of

08:45:55 12 defense, that the legitimate salary diminished the

08:46:00 13 stolen property, to the extent there was any stolen

08:46:02 14 property, that was proved to be an amount below \$5,000.

08:46:07 15 Okay. What's your next one?

08:46:10 16 MR. JUPITER: Your Honor, with regard to the

08:46:12 17 Counts 3 through 36, the wire fraud counts, I know that

08:46:21 18 the Court revised this section and at least put "Virgin

08:46:26 19 Islands National Guard" in one of the elements.

08:46:29 20 However, I thought because of all of the testimony,

08:46:34 21 as well as even exhibits that included payments from the

08:46:43 22 Military Service Corporation in this case, as well as

08:46:47 23 the allegations with regard to improper payments on

08:46:52 24 those, on that end, that it needed to be clearly pointed

08:46:58 25 out to the jury that this was not a -- these were not to

08:47:04 1 be considered in terms of whether or not she committed
08:47:08 2 wire fraud, that she was only being charged with
08:47:14 3 defrauding the Virgin Islands National Guard.

08:47:16 4 And I know the Court, I believe, put that in one --
08:47:21 5 once, but I would ask that the Court would instruct the
08:47:23 6 jury, because this evidence came in regarding payments
08:47:28 7 made by the Military Personnel Services Corporation,
08:47:34 8 that the jury could find, for instance, that there was
08:47:38 9 fraud committed against Military Personnel
08:47:45 10 Compensation -- Personnel Services Corporation, and find
08:47:45 11 that she did not defraud the Virgin Islands National
08:47:52 12 Guard.

08:47:52 13 So I would ask, I would ask for an instruction that
08:47:57 14 the Court would delineate, well, two alternatives. One,
08:48:02 15 my preference would be that the Court would instruct the
08:48:04 16 jury that they are not to consider the payments made to
08:48:16 17 the conduct and transmissions paid to the Military
08:48:21 18 Personnel Services, by Military Personnel Services
08:48:25 19 Corporation to Ms. Morales, in determining whether or
08:48:31 20 not she committed wire fraud.

08:48:33 21 The other alternative would be that the Court would
08:48:39 22 have, would emphasize more exclusion at the beginning
08:48:44 23 and through the elements that it was an intent to
08:48:48 24 defraud the Virgin Islands National Guard only.

08:48:53 25 So I would have asked that the Court would instruct

08:48:55 1 the jury on that specifically, that this specifically
08:49:03 2 relates to the payments made from the Virgin Islands
08:49:05 3 National Guard, and a scheme to defraud the Virgin
08:49:08 4 Islands National Guard.

08:49:11 5 THE COURT: All right. With respect to that
08:49:13 6 issue raised by defense during the charging conference,
08:49:16 7 the Court addressed that.

08:49:20 8 Though the Court is not necessarily persuaded that
08:49:23 9 it was necessary to change the instruction, in an
08:49:29 10 abundance of caution the Court did, and in the first
08:49:34 11 element the Court said: The defendant devised a scheme
08:49:38 12 to defraud, and did say the National -- Virgin Islands
08:49:40 13 National Guard. If the jury doesn't find there was a
08:49:42 14 scheme to defraud the National Guard, then the
08:49:44 15 instruction says that the government would have been
08:49:47 16 deficient in its proof, and that the jury has to find
08:49:51 17 the defendant not guilty.

08:49:53 18 Since the Court's instruction on that point must be
08:49:56 19 read in conjunction with every other instruction,
08:50:00 20 significantly the instruction that says the jury needs
08:50:03 21 to read these instructions together, if they didn't find
08:50:08 22 the first element, then the obligation would be to find
08:50:13 23 the defendant not guilty.

08:50:15 24 Repeating the term "Virgin Islands National Guard,"
08:50:18 25 the Court didn't find that that was necessary in the

08:50:21 1 second or the third element for Counts 3 through 36. So
08:50:36 2 I thought that was appropriate.

08:50:38 3 Anything else?

08:50:39 4 MR. JUPITER: Nothing else with respect to jury
08:50:41 5 instructions, Your Honor.

08:50:42 6 THE COURT: All right. Thank you.

08:50:42 7 All right, Counsel, we will have the rule in place.

08:50:55 8 I don't think the U.S. attorney is in this building
08:50:58 9 either, Attorney Jupiter?

08:50:59 10 MR. JUPITER: Correct, Your Honor.

08:51:01 11 THE COURT: I think in St. Thomas the Public
08:51:03 12 Defender is not in the building, either.

08:51:05 13 MR. JUPITER: We're right down the street, Your
08:51:07 14 Honor. Your Honor, we'll be here in seven minutes.

08:51:11 15 THE COURT: We'll make it an eight, a nine -- a
08:51:14 16 ten-minute rule today. That means be here within
08:51:17 17 ten minutes of a call from Mrs. Brann.

08:51:19 18 Make sure Mrs. Brann has all your contact
08:51:22 19 information.

08:51:22 20 MR. JUPITER: Thank you.

08:51:22 21 THE COURT: All right. Thank you, Counsel.

08:51:37 22 (Court in recess, 8:51 a.m.)

08:51:37 23 (On the record in chambers as follows:)

09:48:56 24 JURY QUESTIONS

09:48:56 25 THE COURT: Good morning. We're on the record.

09:48:56 1 We're in chambers.

09:48:56 2 I received a note from the jury. There was some
09:48:56 3 indication that they have an issue with one of the
09:48:56 4 jurors's ability to comprehend the English language.

09:48:56 5 They reduced their concern to a writing. And the
09:48:56 6 jury note, there's a grave concern from Juror Number 4,
09:48:56 7 as well as the other jurors, with regard to her
09:48:56 8 inability to comprehend what is being said and from
09:48:56 9 fully deliberating on the matter accurately. It is her
09:48:56 10 request as well as the other jurors to have her switched
09:48:56 11 with one of the alternate jurors.

09:48:56 12 My inclination is to voir dire Juror Number 4, find
09:48:56 13 out what her facility is with the language, and if there
09:48:56 14 is some problem then perhaps switch.

09:48:56 15 What's the government's position on that approach?

09:48:56 16 MR. POTTER: I think it's appropriate, Judge.

09:48:56 17 THE COURT: Attorney Jupiter?

09:48:56 18 MR. JUPITER: Well, Your Honor, wasn't she
09:48:56 19 questioned about this beforehand?

09:48:56 20 Wasn't this issue brought forth?

09:48:56 21 I thought that that was resolved.

09:48:56 22 THE COURT: What issue?

09:48:56 23 MR. JUPITER: In terms of her ability to speak
09:48:56 24 English.

09:48:56 25 THE COURT: When was that brought up?

09:48:56 1 MR. JUPITER: I don't think it was brought up,
09:48:56 2 but I did -- I guess, I thought the Court's staff was
09:48:56 3 made aware of it and I thought it was something that was
09:48:56 4 resolved.

09:48:56 5 THE COURT: Did someone on the Court staff tell
09:48:56 6 you that something had come up?

09:48:56 7 MR. JUPITER: No, Your Honor. I just had seen
09:48:56 8 someone, I guess, speaking with her and Mrs. Brann. I
09:48:56 9 thought that issue was resolved.

09:48:56 10 THE COURT: Oh, you saw this juror speaking
09:48:56 11 with Mrs. Brann?

09:48:56 12 MR. JUPITER: And another juror seemed to be
09:48:56 13 communicating through her. So I thought that that issue
09:48:56 14 was resolved.

09:48:56 15 THE COURT: Okay. And the issue, and you're
09:48:56 16 saying that this issue was discussed by the juror and
09:48:56 17 Mrs. Brann and someone else?

09:48:56 18 MR. JUPITER: That's what I surmised, Your
09:48:56 19 Honor. I wasn't privy to the conversation, but when I
09:48:56 20 saw, I guess I thought that issue was resolved.

09:48:56 21 THE COURT: I see.

09:48:56 22 All right. Well, the issue, it seems, whatever the
09:48:56 23 issue is that this note focuses on, is one that's before
09:48:56 24 me with this note now, and the question is, what do we
09:48:56 25 do with it.

09:48:56 1 My thought was to inquire of the juror and assess
09:48:56 2 whether, in fact, there is some issue with her ability
09:48:56 3 to comprehend. If there isn't, then I suspect she goes
09:48:56 4 back; and if not, then we'll deal with that.

09:48:56 5 What do you think about that approach?

09:48:56 6 MR. JUPITER: I think I'm at least finding out
09:48:56 7 the information you should find it out. But I think if
09:48:56 8 we have information that this was what was brought up to
09:48:56 9 the Court personnel before --

09:48:56 10 THE COURT: Go ahead.

09:48:56 11 MR. JUPITER: -- but if this issue was
09:48:56 12 presented, even if it was off the record, I think that
09:48:56 13 we should make a record of it in terms of what was
09:48:56 14 presented. Even if it was off the record, I think we
09:48:56 15 should put on the record whatever was presented.

09:48:56 16 Because like I said, I wasn't privy to the
09:48:56 17 conversation. I just thought it was -- I don't know.
09:48:56 18 So I don't know what to say, because I wasn't privy to
09:48:56 19 the conversation.

09:48:56 20 But if there was something off the record, I think
09:48:56 21 we should put it on the record, if this issue was
09:48:56 22 brought up before, before the -- and what time it was
09:48:56 23 brought up.

09:48:56 24 That's all I'm saying. I don't know. But I think
09:48:56 25 if it was an issue -- if this issue was brought up

09:48:56 1 before, then we should put it on the record. If it
09:48:56 2 wasn't, then we should just say it wasn't.

09:48:56 3 THE COURT: Okay. All right.

09:48:56 4 MR. POTTER: This is the first time the
09:48:56 5 government is hearing anything about this, Your Honor,
09:48:56 6 so we have no knowledge of anything that may have
09:48:56 7 occurred on or off the record during jury selection.

09:48:56 8 THE COURT: Okay. The key issue right now is
09:48:56 9 that there's a deliberation issue that needs to be
09:48:56 10 addressed.

09:48:56 11 I'm going to ask the juror to come. It's Juror
09:48:56 12 Number 4. Why don't we bring her in here. I'll
09:48:56 13 inquire, and then we'll go from there.

09:48:56 14 MR. JUPITER: I would request -- if she can't
09:48:56 15 speak English, I would request an interpreter, Your
09:48:56 16 Honor.

09:48:56 17 THE COURT: We'll see.

09:48:56 18 MR. JUPITER: Your Honor, I would ask for my
09:48:56 19 client to be present. She is right outside.

09:48:56 20 THE COURT: Okay.

09:48:56 21 (Pause)

09:48:56 22 THE COURT: What we'll do, then, we'll do this
09:48:56 23 in the Court. All right, Counsel?

09:48:56 24 MR. JUPITER: Thank you, Your Honor.

09:48:56 25 (End of in chambers proceedings.)

09:48:56 1 (In court, jury not present.)

09:48:56 2 THE COURT: For this portion of the proceeding,
09:48:56 3 the court will be sealed; just counsel and the
09:48:56 4 defendant.

09:48:56 5 All right. We received a jury issue. Let me ask
09:48:56 6 the CSO to make sure this is sealed.

09:49:30 7 All right. We received a notice. Let me ask the
09:49:33 8 juror to come to the witness box, please.

09:50:01 9 Raise your right hand.

09:50:03 10 (Witness sworn by the judge.)

09:50:07 11 THE JUROR: Yes.

09:50:07 12 THE COURT: Okay. Have a seat.

09:50:14 13 Good morning.

09:50:15 14 THE JUROR: Good morning.

09:50:16 15 THE COURT: Tell us your Juror Number, please.

09:50:18 16 THE JUROR: No Ingles.

09:50:19 17 THE COURT: What is your Juror Number?

09:50:24 18 Speak closer to the microphone, please.

09:50:26 19 THE JUROR: Huh?

09:50:27 20 THE COURT: Speak closer to the microphone.

09:50:31 21 THE JUROR: No comprendo.

09:50:37 22 THE COURT: Okay. Can you tell us what your
09:50:42 23 Juror Number is, please, ma'am?

09:50:44 24 THE JUROR: No comprendo.

09:50:51 25 THE COURT: Ma'am, look this way.

09:50:59 1 Ma'am, what is your Juror Number?

09:51:05 2 (Juror speaking Spanish.)

09:51:11 3 THE COURT: All right. Does the government
09:51:14 4 wish to inquire?

09:51:17 5 MR. POTTER: Not at this time, Your Honor, no.

09:51:20 6 THE COURT: Does defense wish to inquire?

09:51:23 7 MR. JUPITER: No, Your Honor.

09:51:25 8 I would request an interpreter. I think the record
09:51:29 9 should reflect that when the Court asked, "What is your
09:51:33 10 name" -- "What is your number," the juror responded her
09:51:40 11 name. And I think we do note "Juror Number" and
09:51:48 12 "nombre" sound most similar.

09:51:49 13 THE COURT: My question is: Do you want to
09:51:50 14 inquire? Yes or no.

09:51:52 15 MR. JUPITER: I would like to inquire through
09:51:54 16 an interpreter, Your Honor.

09:51:55 17 THE COURT: Okay. All right.

09:51:58 18 I don't think that will be necessary at this point.

09:52:03 19 All right.

09:52:08 20 All right. Thank you, ma'am. You can step down
09:52:14 21 now.

09:52:14 22 I would like the record to reflect that the juror
09:52:18 23 came to the box with the CSO waving her towards the box.
09:52:21 24 And when I said "step down," she did not respond. What
09:52:27 25 she did respond to was the CSO's hand movement,

09:52:30 1 indicating, asking her to move.

09:52:31 2 She, in the Court's view, was unresponsive to the
09:52:34 3 Court's inquiries, and not in comprehension of the
09:52:40 4 language that the Court asked the question, since
09:52:44 5 significantly that's the language of the trial.

09:52:47 6 And so the Court's inclination is to excuse this
09:52:52 7 juror and bring in the first alternate.

09:52:54 8 What's the government's position?

09:52:55 9 MR. POTTER: The government concurs, Your
09:52:56 10 Honor.

09:52:56 11 THE COURT: What is the defense position?

09:53:00 12 MR. JUPITER: We move for a mistrial, Your
09:53:03 13 Honor, because we don't know at this point whether or
09:53:05 14 not any other jurors on the -- obviously, the jurors who
09:53:08 15 were selected appear to be able to speak and comprehend
09:53:11 16 English.

09:53:12 17 But in terms of the jury selection process, we
09:53:15 18 don't know whether or not there were other members of
09:53:19 19 the panel that would have affected counsel's use of
09:53:21 20 peremptory strikes, as well as use for strikes for
09:53:25 21 cause.

09:53:25 22 Obviously this witness -- this juror would have
09:53:28 23 been excused for cause, and that would have affected
09:53:31 24 counsel's choices and peremptory strikes. And the -- I
09:53:38 25 don't know whether or not there were other jurors,

09:53:40 1 because I guess this question was not asked.

09:53:42 2 We would also ask that the Court inquire as to the
09:53:48 3 conversation between this juror and court personnel
09:53:54 4 prior to beginning of this trial.

09:53:55 5 THE COURT: Okay.

09:53:56 6 Well, the Court's view, the juror is not capable of
09:54:02 7 communicating in English, doesn't seem to comprehend the
09:54:06 8 language, and so the Court will excuse the juror and
09:54:11 9 move the first alternate into her position.

09:54:15 10 What we'll do is we'll excuse her, bring the
09:54:17 11 alternate in right away, first alternate. We'll bring
09:54:21 12 all the jurors in and instruct them that they need to
09:54:24 13 begin their deliberations anew.

09:54:28 14 So we can bring the first alternate, whoever that
09:54:39 15 is.

09:56:58 16 MR. JUPITER: May I renew a motion, Your Honor?

09:57:01 17 THE COURT: Yes.

09:57:01 18 MR. JUPITER: If I had not done so before, I
09:57:03 19 renew my motion for judgment of acquittal pursuant to
09:57:06 20 Rule 29 of the Federal Rules of Criminal Procedure.

09:57:08 21 THE COURT: All right.

09:57:50 22 Actually, Juror Number 4 is excused. She can
09:58:03 23 leave.

09:58:07 24 THE COURT SECURITY OFFICER: Should I get her
09:58:08 25 bag and --

09:58:09 1 THE COURT: She can -- yeah. You can stay out.

09:58:15 2 THE COURT SECURITY OFFICER: She is going in

09:58:16 3 the restroom.

09:58:37 4 THE COURT: Is the courtroom locked?

09:58:39 5 THE COURT SECURITY OFFICER: Yes.

09:58:43 6 THE COURT: That might be part of the problem.

09:58:44 7 They may be trying to bring the alternate through the

09:58:47 8 front door.

09:58:52 9 They wouldn't bring the alternate that way. The

09:58:54 10 alternate is probably coming through the front door.

09:59:03 11 THE COURT SECURITY OFFICER: Is it unsealed

09:59:05 12 now?

09:59:05 13 THE COURT: Not yet. But let's just -- I'll

09:59:08 14 deal with it if someone comes in.

09:59:08 15 (Pause.)

10:00:03 16 THE COURT: Okay. Bring in the jurors, please.

10:00:16 17 Sir, you can come in and have a seat where you were

10:00:19 18 sitting before.

10:01:29 19 (Jury present.)

10:01:30 20 THE COURT: Be seated.

10:01:30 21 Good morning again, ladies and gentlemen.

10:01:32 22 If you are in the jury box now, you will be the

10:01:38 23 jury that will be deliberating on this case.

10:01:42 24 You'll note that there is one new member to your

10:01:45 25 group, and there is one who is not there when we started

10:01:48 1 at 8:30, when you began your deliberations.

10:01:54 2 The law requires that you begin your deliberations
10:01:59 3 now with the full group that will constitute the jury.
10:02:02 4 So if you started something before, begin it again so
10:02:04 5 that the new member has the benefit of everyone's
10:02:07 6 thoughts and discussions. All right.

10:02:10 7 So with that, let me return you to the deliberation
10:02:13 8 room to resume your deliberations.

10:02:14 9 (Jury out)

10:02:49 10 THE COURT: All right. The Court will note
10:02:50 11 that the courtroom was opened for that portion where the
10:02:53 12 Court charged the new juror and all the jurors to begin
10:02:58 13 their deliberations. It was closed for the portion that
10:03:02 14 was addressing the juror disqualification issue.

10:03:05 15 All right, Counsel. There is no seven-minute rule,
10:03:08 16 so please stay in the courthouse.

10:03:10 17 Thank you.

10:44:42 18 (Court in recess, 10:03 a.m.)

14:13:36 19 (Court in session, 2:13 p.m., jury present.)

14:13:39 20 JURY VERDICT

14:13:39 21 THE COURT: Good afternoon, ladies and
14:13:40 22 gentlemen.

14:13:40 23 I know you've been working hard all day. I
14:13:44 24 understand you've come to a conclusion.

14:13:45 25 Let me ask the foreperson to hand up the form,

14:13:52 1 please.

14:13:53 2 Mrs. Brann.

14:14:16 3 (Verdict handed up. Pause)

14:15:23 4 THE COURT: Mrs. Brann?

14:15:24 5 All right. Will the defendant please rise?

14:15:28 6 Madam foreperson, if you could read the jury's

14:15:32 7 verdict. You just have to read the form as it is

14:15:35 8 written, and read your several verdicts.

14:15:53 9 You can just read as the words are written. Just

14:15:56 10 read those.

14:15:57 11 THE FOREPERSON: (Reading verdict:)

14:15:58 12 As to Count 1, theft from a program

14:16:00 13 receiving federal funds from or -- on or about

14:16:05 14 March 7, 2010, to on or about June 30, 2010,

14:16:10 15 as charged in the indictment, we find the

14:16:13 16 defendant, Sherrymae Morales, not guilty.

14:16:22 17 As to the Count -- As to Count 2, theft

14:16:29 18 from a program receiving federal funds from on

14:16:33 19 or about September 20th, 2010, to on or about

14:16:38 20 July 13th, 2011, as charged in the indictment,

14:16:42 21 we find the defendant, Sherrymae Morales, not

14:16:50 22 guilty.

14:16:50 23 As to Count 3, wire fraud on April 7th,

14:16:56 24 2010, as charged in the indictment, we find

14:16:58 25 the defendant, Sherrymae Morales, not guilty.

14:17:05 1 As to Count 4, wire fraud on April 21st,
14:17:11 2 2010, as charged in the indictment, we find
14:17:13 3 the defendant, Sherrymae Morales, not guilty.

14:17:17 4 As to Count 5, wire fraud on May 5th,
14:17:24 5 2010, as charged in the indictment, we find
14:17:28 6 the defendant, Sherrymae Morales, not guilty.

14:17:30 7 As to Count 6, wire fraud on May 19,
14:17:42 8 2010, as charged in the indictment, we find
14:17:43 9 the defendant, Sherrymae Morales, not guilty.

14:17:47 10 As to Count 7, wire fraud on June 2nd,
14:17:52 11 2010, as charged in the indictment, we find
14:17:54 12 the defendant, Sherrymae Morales, not guilty.

14:17:58 13 As to Count 8, wire fraud on June 16,
14:18:04 14 2010, as charged in the indictment, we find
14:18:06 15 the defendant, Sherrymae Morales, not guilty.

14:18:12 16 As to Count 9, wire fraud on June 30th,
14:18:18 17 2010, as charged in the indictment, we find
14:18:20 18 the defendant, Sherrymae Morales, not guilty.

14:18:26 19 As to Count 10, wire fraud on July 14,
14:18:32 20 2010, as charged in the indictment, we find
14:18:34 21 the defendant, Sherrymae Morales, not guilty.

14:18:38 22 As to Count 11, wire fraud on July 28,
14:18:44 23 2010, as charged in the indictment, we find
14:18:46 24 the defendant, Sherrymae Morales, not guilty.

14:18:50 25 As to Count 12, wire fraud on August 11,

14:18:55 1 2010, as charged in the indictment, we find
14:18:57 2 the defendant, Sherrymae Morales, not guilty.

14:19:01 3 As to Count 13, wire fraud on
14:19:05 4 August 25th, 2010, as charged in the
14:19:09 5 indictment, we find the defendant, Sherrymae
14:19:12 6 Morales, not guilty.

14:19:15 7 As to Count 14, wire fraud on
14:19:19 8 September 8th, 2010, as charged in the
14:19:22 9 indictment, we find the defendant, Sherrymae
14:19:26 10 Morales, not guilty.

14:19:26 11 As to Count 15, wire fraud on
14:19:33 12 September 22nd, 2010, as charged in the
14:19:36 13 indictment, we find the defendant, Sherrymae
14:19:39 14 Morales, guilty.

14:19:42 15 As to Count 16, wire fraud on
14:19:45 16 October 6th, 2010, as charged in the
14:19:49 17 indictment, we find the defendant, Sherrymae
14:19:52 18 Morales, guilty.

14:19:54 19 As to Count 17, wire fraud on
14:19:58 20 October 20th, 2010, as charged in the
14:20:01 21 indictment, we find the defendant, Sherrymae
14:20:04 22 Morales, guilty.

14:20:07 23 As to Count 18, wire fraud on
14:20:10 24 November 3rd, 2010, as charged in the
14:20:14 25 indictment, we find the defendant,

14:20:16 1 Sherrymae Morales, guilty.

14:20:19 2 As to Count 19, wire fraud on
14:20:22 3 November 17th, 2010, as charged in the
14:20:25 4 indictment, we find the defendant, Sherrymae
14:20:28 5 Morales, guilty.

14:20:28 6 As to Count 20, wire fraud on
14:20:33 7 December 1st, 2010, as charged in the
14:20:36 8 indictment, we find the defendant, Sherrymae
14:20:40 9 Morales, guilty.

14:20:41 10 As to Count 21, wire fraud on
14:20:46 11 December 15th, 2010, as charged in the
14:20:49 12 indictment, we find the defendant, Sherrymae
14:20:52 13 Morales, guilty.

14:20:53 14 As to Count 22, wire fraud on
14:20:59 15 December 29th, 2010, as charged in the
14:21:02 16 indictment, we find the defendant, Sherrymae
14:21:06 17 Morales, guilty.

14:21:07 18 As to Count 23, wire fraud on
14:21:10 19 January 12th, 2011, as charged in the
14:21:14 20 indictment, we find the defendant, Sherrymae
14:21:17 21 Morales, guilty.

14:21:19 22 As to Count 24, wire fraud on January 26,
14:21:25 23 2011, as charged in the indictment, we find
14:21:27 24 the defendant, Sherrymae Morales, guilty.

14:21:29 25 As to Count 25, wire fraud on

14:21:34 1 February 9th, 2011, as charged in the
14:21:37 2 indictment, we find the defendant, Sherrymae
14:21:41 3 Morales, guilty.

14:21:41 4 As to Count 26, wire fraud on
14:21:46 5 February 23rd, 2011, as charged in the
14:21:49 6 indictment, we find the defendant, Sherrymae
14:21:52 7 Morales, guilty.

14:21:54 8 As to Count 27, wire fraud on March 9th,
14:22:00 9 2011, as charged in the indictment, we find
14:22:02 10 the defendant, Sherrymae Morales, guilty.

14:22:05 11 As to Count 28, wire fraud on March 23rd,
14:22:12 12 2011, as charged in the indictment, we find
14:22:13 13 the defendant, Sherrymae Morales, guilty.

14:22:17 14 As to Count 29, wire fraud on April 6,
14:22:24 15 2011, as charged in the indictment, we find
14:22:27 16 the defendant, Sherrymae Morales, guilty.

14:22:31 17 As to Count 30, wire fraud on April 20th,
14:22:37 18 2011, as charged in the indictment, we find
14:22:39 19 the defendant, Sherrymae Morales, guilty.

14:22:43 20 As to Count 31, wire fraud on May 4th,
14:22:49 21 2011, as charged in the indictment, we find
14:22:52 22 the defendant, Sherrymae Morales, guilty.

14:22:54 23 As to Count 32, wire fraud on May 18,
14:23:00 24 2011, as charged in the indictment, we find
14:23:03 25 the defendant, Sherrymae Morales, guilty.

14:23:06 1 As to Count 33, wire fraud on June 1st,
14:23:13 2 2011, as charged in the indictment, we find
14:23:15 3 the defendant, Sherrymae Morales, guilty.

14:23:20 4 As to Count 34, wire fraud on June 15,
14:23:26 5 2011, as charged in the indictment, we find
14:23:28 6 the defendant, Sherrymae Morales, guilty.

14:23:33 7 As to Count 35, wire fraud on June 29th,
14:23:38 8 2011, as charged in the indictment, we find
14:23:40 9 the defendant, Sherrymae Morales, guilty.

14:23:45 10 As to Count 36, wire fraud on July 13,
14:23:51 11 2011, as charged in the indictment, we find
14:23:53 12 the defendant, Sherrymae Morales, not guilty.

14:24:01 13 THE COURT: Madam Foreperson, thank you.

14:24:19 14 MR. JUPITER: Request polling, Your Honor.

14:24:21 15 THE COURT: All right.

14:24:22 16 Mrs. Brann?

14:24:34 17 THE CLERK: Jurors, you have heard the
14:24:36 18 foreperson announce the unanimous jury verdict. I will
14:24:41 19 now ask you individually, is this your independent
14:24:43 20 verdict.

14:24:43 21 As I call your seat number, please stand.

14:24:47 22 Seat 1, is this your independent verdict?

14:24:52 23 THE JUROR: Yes.

14:24:54 24 THE CLERK: Seat 2, is this your independent
14:24:55 25 verdict?

14:24:56	1	THE JUROR: Yes.
14:24:57	2	THE CLERK: Seat 3, is this your independent
14:24:59	3	verdict?
14:25:00	4	THE JUROR: Yes.
14:25:02	5	THE CLERK: Seat 4, is this your independent
14:25:04	6	verdict?
14:25:10	7	THE JUROR: Yes.
14:25:11	8	THE CLERK: Seat 5, is this your independent
14:25:13	9	verdict?
14:25:14	10	THE JUROR: Yes.
14:25:14	11	THE CLERK: Seat 6, is this your independent
14:25:16	12	verdict?
14:25:20	13	THE JUROR: Yes.
14:25:21	14	THE CLERK: Seat 7, is this your independent
14:25:23	15	verdict?
14:25:24	16	THE JUROR: Yes.
14:25:25	17	THE CLERK: Seat 8, is this your independent
14:25:26	18	verdict?
14:25:27	19	THE JUROR: Yes.
14:25:28	20	THE CLERK: Seat 9, is this your independent
14:25:30	21	verdict?
14:25:33	22	THE JUROR: Yes.
14:25:34	23	THE CLERK: Seat 10, is this your independent
14:25:37	24	verdict?
14:25:44	25	THE JUROR: Yes.

14:25:45 1 THE CLERK: Seat 11, is this your independent
14:25:48 2 verdict?

14:25:49 3 THE JUROR: Yes.

14:25:51 4 THE CLERK: Seat 12, is this your independent
14:25:53 5 verdict?

14:25:53 6 THE JUROR: Yes.

14:25:55 7 THE CLERK: Judge, the jury has been polled.

14:25:57 8 THE COURT: All right. Thank you, Mrs. Brann.
14:25:59 9 The defendant can have a seat.

14:26:02 10 Ladies and gentlemen, let me thank you for your
14:26:03 11 service.

14:26:04 12 I know it is never easy serving as a juror. When
14:26:07 13 you do serve, you serve your community, this court, the
14:26:12 14 country. You do something that is very important. We
14:26:15 15 could not function in the criminal justice system
14:26:20 16 without you. You are that important.

14:26:21 17 So I thank you for your service. I know the
14:26:24 18 government thanks you. I know defense thanks you for
14:26:27 19 your service.

14:26:28 20 So with that, let me wish you a pleasant day and a
14:26:31 21 pleasant evening. Thank you.

14:27:05 22 (Jury not present.)

14:27:08 23 FURTHER PROCEEDINGS

14:27:08 24 THE COURT: All right, Counsel.

14:28:14 25 Okay. Will the defendant rise.

14:28:17 1 Ms. Morales, you've been found guilty by the jury.
14:28:19 2 Before you are sentenced, the Probation Office needs to
14:28:24 3 undertake a presentence investigation. The presentence
14:28:29 4 investigation will be disclosed to all parties on
14:28:32 5 April 10th, 2015.

14:28:34 6 Presentence conference will take place no later
14:28:37 7 than August 24th, 2015.

14:28:40 8 The position of the parties with respect to
14:28:42 9 sentencing should be shared no later than September 1,
14:28:49 10 2015.

14:28:50 11 The conference regarding sentencing proceedings, if
14:28:52 12 necessary, will take place no later than September 15,
14:28:57 13 2015.

14:28:57 14 The final Presentence Report will be disclosed to
14:29:00 15 all parties of the court on September 20th, 2015.

14:29:05 16 And the sentencing hearing will take place on
14:29:09 17 October 20th, 2015, at 9:00 a.m.

14:29:15 18 My inclination is that that hearing will take place
14:29:21 19 in St. Thomas, as I think some of the considerations
14:29:23 20 that caused us to have the trial in St. Croix will not
14:29:27 21 be attendant for the sentencing hearing.

14:29:30 22 All right. Between now and then, what's the
14:29:36 23 government's position with respect to remand, now that
14:29:40 24 the defendant is adjudged guilty of those counts?

14:29:43 25 MR. POTTER: Your Honor, the government has no

14:29:48 1 position on remand.

14:29:51 2 THE COURT: All right. I'm going to have the
14:29:53 3 defendant surrender to the U.S. Marshal's Service --
14:29:57 4 today is the 1st -- July the 15th, 2015, at 3:00 p.m.

14:30:08 5 That will be in the -- this is a St. Thomas case.
14:30:14 6 Is St. Thomas a more convenient place, or St. Croix a
14:30:18 7 more convenient place, Attorney Jupiter?

14:30:22 8 MR. JUPITER: St. Croix, Your Honor.

14:30:23 9 THE COURT: All right. The defendant will
14:30:25 10 surrender to the United States Marshal's Service on
14:30:28 11 July 15, 2015, at no later than 3:00 p.m., and the
14:30:33 12 defendant will be remanded from that period until the
14:30:35 13 date of sentencing, pending her sentencing, in the
14:30:40 14 custody of the United States Marshal's Service.

14:30:42 15 All right. Counsel, I think that wraps up this
14:30:45 16 case and all the matters we need to tend to.

14:30:50 17 Let me thank counsel for a well-trying case. All
14:30:53 18 right. Thank you, Counsel.

14:30:55 19 (Court in recess, 2:30 p.m.)

14:30:55 20

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CERTIFICATE

This document is hereby certified
to be a true and accurate transcript
of the foregoing proceedings.

/s	_____	_____
	Chandra Kean, RMR	DATE
	Official Court Reporter	